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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,308	08/05/2003	Alfredo Lavin Sasian	SSC-110-A	7866

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EXAMINER
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PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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11/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/634,308

Applicant(s)

SASIAN, ALFREDO LAVIN

Examiner

Jason Prone

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

It is noted that in applicant's arguments section item 3 in the response received 23 August 2007, applicant states that a new set of drawings have been submitted. However, after a review of all materials received on 23 August 2007, a set of new drawings does not appear to have been received.

#### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Mexico on 11 July 2003. It is noted, however, that applicant has not filed a certified copy of the PA/u/2003/000166 application as required by 35 U.S.C. 119(b).

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 10 line 2 of paragraph [0034], item "100". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "lid" of claim 5 (see note above) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both a slot on page 8 line 11 and a lid in newly amended paragraph [0030.3]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claims 1-5 and 7 are objected to because of the following informalities: claims 1, 3-5, and 7 are replete with redundant issues, grammatical issues, and issues that could make the claim indefinite. It is noted that the first 2 words "A device" in claims 2-5 and 7 should be replaced with "The device". Instead of listing all of the individual issues, the examiner has re-written the claims.

Claim 1. A device for dispensing plastic bags joined end to end in a roll and severable from one another by a perforated transverse tear line arrangement including an engageable slot operating between said successive bags, comprising:

a support stand including an elongated support member, and a central base plate for supporting the stand and vertically orienting said elongated support member, and

a dispenser box, said dispenser box including a base member, said base member being connected atop said elongated support member and including a first edge portion, a plurality of walls including a front wall and an opposed rear wall, said walls being angularly disposed with respect to said base member to form therewith an

Art Unit: 3724

inner compartment sized to receive and store at least one of said roll of said bags, said front wall includes a bottom edge portion, said first edge portion of the base member and said bottom edge portion of the front wall being in a juxtaposed spaced-apart relation with one another and forming a discharge opening that extends along the bottom edge portion of the said front wall for dispensing said bags outwardly from the inner compartment, a ramp in said inner compartment and atop said base member for supporting the roll, said ramp sloping downwardly between the rear and front walls of the box to enable said roll to roll downwardly and position a portion of said roll against said front wall and a first of said successive bags at said discharge opening, and a hook projecting upwardly from said first edge portion of the base member, said hook sloping rearwardly from said front wall towards said rear wall, said hook member adapted to be hooked into said slot provided in said perforated tear line when said first of said successive bags is pulled outwardly through the discharge opening, said hook detaching said first of said successive bags from the roll when a sufficient pulling force is placed on said first of said successive bags to sever the perforated tear line.

It is noted that only the "hook" portion of claim 2 has been re-written (see 112 rejection below).

Claim 2. ...and a second rearward sloping hook extending from the said first edge portion of the base member, one of said hooks being located on one side of said dividing wall and corresponding to one of said compartments and the other of said hooks being located on the other side of said dividing wall and corresponding with the other of said compartments.

Claim 3. The device in accordance with claim 1, wherein: said elongated support member is generally tubular and has a central axis and said box being eccentrically fixed via the elongated support member to said central base plate of said support stand to avoid instability of said device while detaching said first of said successive bags from the roll.

Claim 4. The device in accordance with claim 1 wherein: said central base plate has a heavier mass to stabilize the device during use.

Claim 5. The device in accordance with claim 1, wherein: the dispenser box includes an openable/closeable lid.

Claim 7. The device in accordance with claim 1, wherein: said central base plate is fixed to the ground to stabilize the device during use.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "each compartment having a discharge opening" is unclear. Claim 1 previously discloses a discharge opening and in combination with claim 2, the device will incorporate 3 openings, however, the specification only provides support for 1 opening. It is unclear what structure encompasses the 2 discharge openings of claim 2.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leonhard (690,165) in view of Daniels (2004/0007607) and Kannankeril et al. (5,813,585) (from now on known as K585). In regards to claim 1, a dispensing device comprising a dispenser box (Fig. 1) including a base member (i) with a first edge portion (h), a plurality of walls including a front wall (b) and an opposed rear wall (a), the walls being angularly disposed with respect to the base to form an inner compartment (Fig. 1), the front wall includes a bottom edge portion (g), the first edge portion and the bottom edge portion being in a juxtaposed spaced-apart relation and forming an opening that extends across the bottom of the front wall (o), a ramp in the compartment atop the base member (j), the ramp sloping downwardly between the rear and front walls to enable the roll to roll downwardly and position the free end of the roll against the front wall and at the opening (Fig. 3), and a separating means projecting upwardly from the first edge portion (l).

However, in regards to claims 1, 3, 4, and 7, Leonhard fails to disclose a support stand, the support stand includes a generally tubular elongated support member with a central axis, the base member being connected atop the support member, a central base plate, the box being eccentrically fixed to the base plate, the base plate having a



heavier mass, the base plate is fixed to the ground, and the separating means is a hook sloping rearwardly from the front wall towards the rear wall.

Daniels teaches it is old and well known in the art of dispensers to incorporate a support stand (Fig. 42), the support stand includes a generally tubular elongated support member with a central axis (1280), the base member being connected atop the support member (Fig. 42), a central base plate (1240), the box being eccentrically fixed to the base plate (1240), the base plate having a heavier mass (1240), the base plate is fixed to the ground (1240). It is noted that the placement of the box relative to the base plate and making the base plate of a larger mass to prevent an item from being unstable is old and well known in the art of physics/dynamics and it would have been obvious to one of ordinary skill in the art to have experimented/tried to come up with such a stable device. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Leonhard with support stand, as taught by Daniels, because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results and the claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

K585 teaches it is old and well known in the art of dispensers to incorporate a separating means that is a hook sloping rearwardly from the front wall towards the rear

wall (48). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Leonhard with a rearward sloping hook separation means, as taught by K585, because the substitution of one known element for another would have yielded predictable results and would allow the user to perform the intended function of dispensing and separating plastic bags.

10. Claim 2 is rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over over Leonhard in view of Daniels and K585 as applied to claim 1 above, and further in view of Wilfong Jr. et al. (5,207,368). Leonhard in view of Daniels and K585 disclose the invention but fail to disclose at least one dividing wall being disposed inside the compartment and extending between front and rear walls to create two distinct compartments, each compartment having a discharge opening being in lateral side-by-side relation, and at least one compartment having a hook.

Wilfong Jr. et al. teach it is old and well know in the art of dispensers to incorporate at least one dividing wall being disposed inside the compartment and extending between front and rear walls to create two distinct compartments (30), each compartment having a discharge opening being in lateral side-by-side relation (32 and 33), and at least one compartment having a hook (32 and 33). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Leonhard in view of Daniels and K585 with a dividing wall, as taught by Wilfong Jr. et al., because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded

predictable results and the claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonhard in view of Daniels and K585 as applied to claim 1 above, and further in view of Kannankeril et al. (5,573,168) (from now on known as K168). Leonhard in view of Daniels and K585 disclose the invention but fail to disclose an openable/closeable lid.

K168 teaches it is old and well known in the art of dispensers to incorporate an openable/closeable lid (22). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Leonhard in view of Daniels and K585 with lid, as taught by K168, because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results and the claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

#### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-5 and 7 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Art Unit: 3724

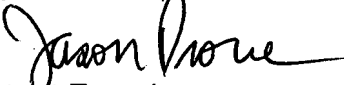
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sipior and Geleziunas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 8:00-5:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 01, 2007

  
Patent Examiner  
Jason Prone  
Art Unit 3724  
T.C. 3700